

DOYLE BERTSCHY,)
)
Plaintiff,)
)
-vs-) Case No. CIV-09-1370-F
)
EVERETTE VAN HOESSEN,)
et al.,)
)
Defendants.)

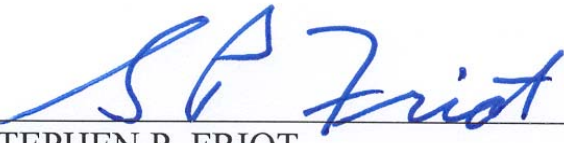
On February 28, 2011, United States Magistrate Judge Bana Roberts issued a Report and Recommendation, wherein she recommended that Defendant Everette Van Hoesen's Motion for Summary Judgment be granted. Magistrate Judge Roberts advised plaintiff of his right to object to the Report and Recommendation by March 21, 2011 and further advised that failure to make timely objection to the Report and Recommendation waives the right to appellate review of the factual and legal issues therein contained.

To date, no objection to the Report and Recommendation has been filed and no extension of time to file an objection has been requested. The record reflects that the Report and Recommendation mailed to plaintiff was returned to the court on March 14, 2011 as undeliverable. *See*, doc. no. 38. Rule 5.4(a) of the court's Local Civil Rules provides that pro se litigants must notify the court of any mailing address change and further provides "[p]apers sent by the Court will be deemed delivered if sent to the last known address given to the Court." LCvR 5.4(a). With the Report and Recommendation deemed delivered to plaintiff and with no objection being filed by

plaintiff within the time prescribed by Magistrate Judge Roberts, the court accepts, adopts and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Bana Roberts on February 28, 2011 (doc. no. 37) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Defendant Everette Van Hoesen's Motion for Summary Judgment, filed August 9, 2010 (doc. no. 36) is **GRANTED**. Judgment shall issue forthwith.

DATED March 22, 2011.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE